

**ICANN
Transcription
Review of all Review of all Rights Protection Mechanisms (RPMs) Sub Team for
Trademark Claims
Friday, 02 June 2017 at 16:00 UTC**

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Coordinator: The recording has now started.

Michelle DeSmyter: Thanks, (Bob). Well good morning, good afternoon and good evening to all. And welcome to the RPM Sub Team for Trademark Claims call on the 2nd of June 2017. In the interest of time there will be no roll call but we currently have nine participants plus staff online. Attendance will be taken via the Adobe Connect room so if you're only on the audio bridge today would you please let yourself be known now? Okay thank you.

Hearing no names I would like to remind all to please state your name before speaking for transcription purposes and to please keep your phones and microphones on mute when not speaking to avoid any background noise. With this I will turn the call back over to Kristine Dorrain. You may begin.

Kristine Dorrain: Hi, everyone. Thanks, Michelle. This is Kristine. And happy to fill in for Michael today who's supposed to be - it's supposed to be his turn chairing, but he unfortunately came down with the INTA flu I think is what they're calling it. So he may pop on later but I will be chairing the call.

I wanted to just - looking at the agenda it does say finalize charter questions. I think we did actually present our charter questions and our updates to the entire working group last Wednesday. There was no feedback at this point that I've been aware of as far as, you know, anybody from the broader working group coming back saying no, there's something majorly wrong, we missed something or mischaracterized something.

So I think that we - unless this, you know, unless somebody has something truly earth-shattering that we clearly didn't miss, I think we've determined that we're calling the charter questions closed at this point. You'll notice in the chart we have - in the Google Doc, we have the original charter questions in the left hand column. We have our updated questions, our clarifying questions in the second column. And we plan to leave them intact as-is.

So we are not losing the original charter questions, those will always be there. It is my understanding that when we actually you know, start doing this review as the whole working group and when we create our final work product we will be sharing the updated questions but we will be answering the original charter questions as presented as well. So we are not going to lose sight of those original questions.

The updated questions are merely to guide our work and to give us a framework or a recommended framework for the working group to go through these questions. So unless anybody has a stark difference in understanding, we're going to move on to the next piece that we picked up last week which is discussing the data.

So we went through and we kind of took a running stab at all of the data that we wish we could have. And there's sort of a discussion going in Column 3 as far as what different people in the sub team thought might be useful data and if you recall, one of the things we were doing was trying to make sure that we weren't really giving a lot of substantive review, we were simply, you know,

speculating as to what sorts of data might be available, what sorts of data we might like to see if we could get it.

So the far right column dives into that a little bit deeper. And we went and we actually said gosh, it would be really great if we could have all of this information. Last week we really dove into this idea of the claims - the abandonment rate of registrants during the registration process, the domain name registration process.

And we came up with a lot of questions and there was a really free-flow of information between the chat and the phone call and the participants. And so what we asked staff to do was go back through and to document all of the various ideas that we came up with during last week's call because we wanted to be able to kind of look through them and revisit them and see what we were, you know, see if we were in the right path or, you know, if there was, you know, more information we could follow up on.

So yesterday Mary and Amr circulated a document called Comments Regarding Abandonment Rate Data from Trademark Claims Sub Team call on 26 May 2017 and just looks like staff has just put that in the Adobe Connect room.

You can see there's a code of different contributors and so staff pulled out the comments. Staff did group the comments sort of by topic which is something that, you know, we can continue to go forward with or not. I think it's fine for now. And then staff went through and actually added in some additional notes, so where they felt like there was Analysis Group point, they added that into Column 3 on this chart.

So now we have an open column on the right in which we can fill in today our views on this charter question. I'm sorry, not on this charter question, on the data. So what we want to do, what my hope for today is that we will come through this second chart, the abandonment rate chart, and come up with a

list of things we think we can actually get that we would like to recommend that the working group - the broader working group ask for, or that we ask for in anticipation of the broader working group's work.

And I think if there's something that we would love to have but we think would be really hard to get we're just going to need to note that and move on. I'm going to ask that as we launch into this that we really be mindful of the fact that we do not want to delve into a substantive discussion about this, so my view as to whether or not, you know, what the 93% actually indicates isn't really up for discussion, it's really a matter of what data do we need to answer the questions rather than sort of advocating for a particular view of the data.

So I'd like to open it up for discussion. I don't think there's anyone just on the audio so the good news is we shouldn't have to read through everything on the chart. But we do want to go through the topics.

So the first topic is the comments pertaining to the domain name registration process and triggering of a claims notice. So as we're looking at the chart we want to find out about when the abandonment happens specifically, that's kind of a recurring theme in the questions. So just glancing at this first Number 1A, comments made by sub team members, Michael Graham had wanted to know what's the abandonment rate of domain name registrants - registrations not triggering a claims notice, so abandoned for reasons other than a claims notice.

And how does this compare to abandonment rate associated with a triggered claims notice? Raise your hands, participate, jump in, you know, is that data we think we can get? Mary, go ahead.

Mary Wong: Thanks, Kristine. This is Mary from staff. And while I'm not an expert on what the data is that's out there and where to get it, I thought it would be helpful to note that the Analysis Group did also reach out to registrars and registry

operators to try to get additional data from them between the preliminary report and the final report they put out.

And I mention this here in the - in relation to this question of abandonment rate because presumably if that's the kind of data that we can only get from say, registrars, then I think we should note that it has not been easy to get that data, in fact the Analysis Group sent several questions to a sample set of registrars and only received feedback from one. So I'm not sure what we can do to fix it but hopefully just an observation.

Kristine Dorrain: Yes, I think you're right about that, Mary. I'll let Susan go and I'll put myself in the queue so I can address your comment. Thanks. Go ahead, Susan.

Susan Payne: Hi, thanks. It's Susan Payne. Yes, I'm going to agree with Mary and just add to that the TMCH data gathering group also early on, you know, in readiness for these kind of questions did gather some questions that were sent to registrars including questions speaking to illicit data about abandonment rates. And we got no responses whatsoever. So I think the trouble we have is that they are not required to respond to us and I'm quite sure it's kind of, you know, it probably falls into the - either not interested in providing or too much work to provide. And, you know, what's in it for them.

I don't know whether ICANN itself would be able to ask for that information and could envisage a better response rate, but I don't think so probably.

Kristine Dorrain: Thanks, Susan. Yes, this is Kristine again. You know, I suspect that - I think everyone's right, I'm not disagreeing with that at all. I think that - I would like to ask the question, and I know Roger's hand is next - I'd like to ask the question, you know, we've noted this sort of 93% abandonment rate, presumably it's registrants that are of - obviously registrants are abandoning but presumably this is an interest to registrants.

Registrants are the registrar's customer, so I would, yes, I would like to hope that, you know, some number of registrars would say hey you know, we want to figure out and make sure that we keep our customers. So yes, I think that's really an interesting point about getting participation from registrars. Roger, go ahead.

Roger Carney: Yes, hi. This is Roger. Yes, I know this is a topic that's been pushed several times from different areas, and honestly I'm not sure - I don't see too many registrars giving this data up. I mean, there's definitely some competitive issues here. If a registrar says hey, we have this abandonment rate and at this point then another registrar is going to make that point something that's not a point on their flow. So I definitely see some competitive issues trying to get to this data.

I don't know if it's more of can we ask registrars maybe - I don't know, not specifically what their abandonment rate is or where, maybe ask registrars what data they do have available. And again, I mean, I think most registrars know what those abandonment rates are and where - and sometimes why. Again, I just don't see them sharing that just because of competitive reasons. And again, it's troubling because I've thought about this and we talked about it internally quite a bit about what data we could get to that doesn't you know, disclose any competitive advantages that we may have or we may not have, you know.

So I do think this is going to be tough. And we continue to talk about it internally, just so everybody knows, but at this point we haven't even come up with a way, you know, to be able to share this information. So that's all I have to say. Thanks.

Kristine Dorrain: Thanks, Roger. I really appreciate that viewpoint. I know, you know, the registries get the same flack, by the way, just so you know, we're also not great at responding to polls and surveys for probably many of the same reasons. And, you know, one of the things that I was just going to throw out

there, I can't even speak for the registries, but what if - and I know maybe Johannesburg is - I'm not sure if we're going to have the attendance we need from Contracted Parties or not, but what if we got together a small panel, you know, some pretty big registrars so that, you know, maybe the data would be pretty gross, you know, without being able to put too fine a point on it and some registries and sort of ask them anecdotally.

I know we've talked several times about the value or danger of anecdotal evidence, you know, everyone, you know, you can always have an anecdote to rebut someone else's anecdote. But, you know, is there some value in hearing some stories even of what, you know, what information people might be willing to share about this just so we can get a sense of the comprehensiveness of the problem.

And I'll read Mary's question in as well, and then, Roger, I notice your hand is up; I'm not sure if you'd like to respond or not? Mary asks, "Is there some way, such as through a trusted third party, that registrars would feel comfortable providing generalized data to who can then compile it as a full anonymized list?" And I think that's an excellent solution. I'm sure Roger doesn't want to speak on behalf of everyone, but I think we should absolutely list that as a suggestion. And I think that my suggestion of a panel of just, you know, kind of talking through might be another solution as well.

Roger, go ahead.

Roger Carney: Yes, and I think that - I think you get - you've hit the problem is, is I think that we can generally talk about these things at high enough levels that, you know, doesn't scare anybody internally at prospective companies. But does that really help and will that provide any influence on direction or not? I suppose that's the bigger thing, it's like if we get into a discussion is it really going to help us get anywhere? As far as Mary's suggestion I don't know, you know, I can throw that around internally and we can see if that's something that's viable.

I think it would be hard but it's definitely something that's - it's better than, you know, setting in a room with, you know, 30 other competitors and saying hey, this is this and that. So but it's something I'll take back in and ask around so.

Kristine Dorrain: Sorry, I pushed the wrong button. Thanks, Roger. Yes, I think that would be great and anything you can share, you know, about how the registrars feel about participating in something like that would be great. I'm trying to actually do something similar with the registries to sort of engage them and get them thinking about some of these issues and what they might be able and willing to provide and in what format and, you know, sort of when and how and that sort of thing.

Okay, so I have a suspicion that as we go through this, this is going to be a theme. I have a suspicion that we're going to get a lot of, you know, where can we get this data? Mostly it's going to come from the registrars. We're not sure we can get it from the registrars. But let's just, you know, walk through quickly and see what we can come up with.

Before we go on - to the next point then, which I'm going to put as yellow, by the way, I'm flagging each question as, you know, either impossible or highly difficult to get. Yellow will be hard or somewhat unlikely for whatever reason. And green is either we have it or this should be relatively easy to get. So for instance, anything we already have from Analysis Group would be, you know, in the green category. And I'm just kind of doing that on my own and I'll, you know, circulate that around later.

But we did get an email in the past hour from Justine Chew who has participated in this group. This time is not a good time for her. And she weighed in that she would like to discuss the abandonment rate data. And so I want to read her comment into the record.

She says, "I think the comments collated in the table dated 1-June, 2017 are adequate, even somewhat overlapping. For me, the key challenge boils down to what Kathy K. has alluded to in 2A, i.e. what value is there in the 93.7% abandonment rate. While I acknowledge and applaud the approach of setting aside any pretext of whether such data is available or not, in compiling these comments, I seriously doubt that the Analysis Group report authors would have neglected to ask for all relevant data from TMCH etcetera. That said, I would be happy to be wrong in this instance and I would be happy to defer to you all in settling this table for onward purposes."

So Justine's point is simply that, you know, she thinks that if the Analysis Group didn't get it, it's probably not available. And maybe that's true. And I think then we need to make that a point when we present to the broader working group. That there's some data that we think could be really useful, we just don't think we're going to be able to get it. And then from there maybe we can come up with some creative ways to suggest it or get it.

One B, anecdotal data, as to why potential registrants did not complete registrations, and I think unless anyone disagrees with me, the kind of the previous answer applies and what I have for that is the data would have to be obtained from registrars. Registrars may not be comfortable sharing this sort of data with competition or you know, in the public.

The next question, and I'm just watching the hand list to see if anybody wants to weigh in differently, how many potential registrants initially abandoned the domain name registration to complete their registration at a later time? Is this data available via registry operators? I think generally speaking this would probably also be something the registrars would have, not the registry operators, most registry operators wouldn't know about sort of abandoned carts versus, you know, coming back to complete later.

And Mary or Amr also noted that the Applicant Guidebook could not trace the potential registrants and the data. All right, is cart abandonment taking place

at the time of a claims notice being presented? Again, that's another question we'd need to ask registrars.

One E, is the abandonment rate representing a total or sequential percentage of abandonment? So are they getting abandoned at the presentation of the claims notice or during all stages? Again, I think a question for the registrars. And Roger points out that's a fairly deep analysis as well I think related to the last question. Like as to the point of abandonment, that would be a lot of work for the registrars even if they were willing to provide that.

Going to F, pricing as a data point, concerning a decision to abandon may be irrelevant as potential registrants know the price of the domain they are seeking to register well before a claims notice is presented. So there's another theory that we would need to rely on registrar data to prove. Kathy notes that the abandonment rate is very revealing, since of a potential registrant reaches the stage in the process of a registration when a claims notice is presented, there's nothing else deterring them from registering. And I think that that's a true statement. I think the big question is when are they abandoning, and we're finding out that we might not be able to get that.

All right, and I think Question I, have instances of leaving potential registrations in the cart unpurchased contributed to the abandonment rate with an intent to purchase at a later time? And again, we've answered that question. So I think we are really all (unintelligible) can be answered by saying unless the registrars are willing to provide that data, we're probably going to have to flag that as yellow data for the working group.

Amr, go ahead.

Amr Elsadr: Thanks, Kristine. This is Amr. I don't know if this will be helpful or not, but one suggestion that does occur to me that may allow the working group - maybe not to answer these questions definitively but at least provide some guidance

is when the claims notice with any registration process would actually be triggered.

Because as - by way of reminder, the data the Analysis Group did obtain and publish in the report was obtained from the TMCH database so what they actually did have were the trademark records that were downloaded by registrars but there was no indication at what point in the registration process this takes place. So if the working group wants to make a determination between whether abandonment happened while domain names were still in the cart or whether it did happen at a later stage in the process when a potential registrant would actually go to the cart and start trying to pay for or register these domain names, it might be helpful to get this data from registrars.

And I'm just wondering if this might be something, you know, just for the description of the process, I'm wondering if this is something registrars may be willing to share or not, so it doesn't actually involve any numbers or figures but just a description of you know, yes we - registrars perhaps download the trademark records when domain names are placed in the cart, or, no, they don't do this until a potential registrant actually tries to register the domain name. Thanks.

Kristine Dorrain: Thanks, Amr. Roger, go ahead.

Roger Carney: Yes, I think - sorry, this is Roger. Yes, I think that that's probably a fairly good question. Again, I don't know if registrars will answer that or not. I don't know that there's a competitive edge to win that in the process. But, you know, again it goes along with abandon rate so you may get some reluctance even on that. But it's fairly easy to tell if you go to a registrar's Website, you try to, you know, register one that's in claims, you'll see their process fairly clearly.

And sometimes it's up front and sometimes it's even after the cart or even after the credit card information has been collected. But again, I don't know if

they'll share that or not. I think it's definitely worth the question. One thing I'd add to that is recognize a lot of registrations are taken pre-general availability, and there's some technical issues around that that drives some issues on displaying claims notices. Most registrars take orders for names well in advance of them actually being generally available.

And then, you know, I would say everybody tries to get them on that first day. But the claims notice piece of that does throw in some pretty heavy technical solutions that had to have been created to be able to get the potential registrants access to the claims notice at the appropriate time which is within the first 48 hours or the previous 48 hours of the GA. But, you know, the registrant may have ordered that three months ago so it's very - some pretty heavy technical issues about getting that.

And that could lead to some of the higher than expected (NCH) numbers of abandonment because you know, registrars may potentially be doing multiple look ups for the same registrant even because of that timing constraint that's built into the IETF specification. So it's something else to look at is the pre-registration and abandonment, again, I don't know if we're going to get numbers or not but it's definitely an issue. And it's actually been talked about at IETF and how that technical happens, that operation happens. So just wanted to throw that in.

Kristine Dorrain: Thanks, Roger. I think that was very helpful. Rebecca's next, I'll put myself in the queue after Rebecca.

Rebecca Tushnet: Hi. This is Rebecca Tushnet. Can you confirm that you can hear me? I had a little trouble getting on.

Kristine Dorrain: Yes, loud and clear.

Rebecca Tushnet: Thank you. So I just wanted to offer I guess a caution and a random hope. So the caution is with respect to some of this data, we - in order to understand its

significance, we'd also need to know the abandonment rate for things that don't trigger a match notice to get any meaningful comparison given the times at which we're suggesting that the data be collected, right? So in order to understand the marginal contribution of the claims notice, we really need to be able to compare, you know, what happens if it didn't trigger a match notice?

And that information may be harder to get. But here's sort of the random sort of spit-balling, you know, if there are confidentiality concerns, one possible way to mitigate them, you know, along with keeping the data, you know, anonymized and within the working group would also be to just ask for the difference if you see what I'm saying.

So, you know, what's the abandonment - what's the difference in abandonment rate you get from people who got match notices and people who didn't? And that would actually be the most useful piece of information for us and would not necessarily reveal anything of great competitive value if available. So I don't know if that's feasible but that's my suggestion. Thank you.

Kristine Dorrain: Thank you, Rebecca. Yes, I think we'll definitely record that question as well if we're able to get some participation from registrars I think that's absolutely worth asking. Given - speaking a little bit, okay, back up. Roger brought out a really good point and that is there are - maybe there's maybe some basic education we could ask some registrars to perform for us mainly kind of an overview of the general processes.

Obviously not every registrar's, you know, individual customized business processes, but where there are two or three kind of primary models you know, perhaps even having us understand how the checkout process works when claims is implicated, how the checkout process works when there's preorders, how the checkout process works after GA and after the claims notice period is expired.

I mean, you know, I guess if registrars aren't willing to provide that, then I guess the other piece of data we could request - and again this would be another one of those sort of long term projects - is, you know, get an intern to actually go, you know, register a bushel of domain names using different registrars during different periods and different processes and try to get a sense of what the process is like so that we can sort of figure out how and when things happen.

But I wonder if that would be the type of information that would not be sort of confidential business practices that we could, you know, possibly ask for. And it would even just help us sort of understand this question all together.

There's a significant - Rebecca, is that a new hand? No? Okay. There's a significant amount of discussion going in the chat. It looks like just to recap some of it, Mary provides some information about the technical specs from the TMCH, how and when the trademark claims notice must be provided. Jeff mentions that it's possible that some registrars are pinging the database without intending to register names. And I do think that we have that as a footnote as being something that we know has happened.

Oh and then Amr then goes along to say, yes that's true, this was noted in the AG report. Kiran disagrees with Rebecca's characterization of the benefits of the claims notices. Let's see what else is in here. Jeff says there's a difference between abandonment where registrants said they did not want to proceed and where registrants said nothing but just closed their browser. And then a little bit of back and forth and Jeff believes that the abandonment rate is a wild goose chase.

Okay, so I think, you know, I think there's a significant contention of people that do believe the abandonment rate is significant and I do not believe that it's within the purview of this particular working group to say that those questions should be, you know, thrown out of the list at this point. But I

actually do think that we should provide a list of the suggestions so that when the working group gets to this part they can understand that there was significant discussion, that we do believe the data around abandonment is going to be pretty hard to obtain.

And that the working group will need to decide what to do at that point. Jeff and then Mary.

Jeff Neuman: Yes, thanks. The reason I think, again I just want to go in a little more detail. I mean, I've always felt that this abandonment rate question is a wild goose chase. It's more than just the data is not available but it's also if you look at even the proof of concept report back in 2004 or '05, that looked at the dotBiz launch of IP claims when they launched, which was the first registry to do it, there was no way for the registry to know why things - why claims were abandoned as much as they tried to figure it out, there were still a very high percentage of abandonment back then. And we probably should dig up those statistics to compare.

I can't remember exactly what it was but perhaps if Mary or ICANN staff could pull up that proof of concept report or it might not even be the proof of concept report, it may also be in the summit strategies report that was done on the new gTLDs including dotBiz. And maybe just comparing the two to see that both of them show high rates of abandonment. Thanks.

Kristine Dorrain: Thanks, Jeff, I appreciate that notice. I'm always looking for some concrete suggestions of where we can look for more information. Also Rebecca pointed out in the chat that - and before I let Mary and then Phil go - that I skipped a couple of comments and it looks like that Jeff had talked about the abandonment between not wanting to proceed and just closing their browser, and Rebecca pointed out that she didn't actually mean that the marginal effective - the sort of claims was marginal.

She says, "My point was the effect of the notice is the marginal difference and abandonment rate between the group that got a notice and group that didn't get a notice so you could say net instead of marginal if you prefer." So she was just clarifying her use of the word "marginal."

And then from there I think the rest of the - I think I captured the rest of the - oh, and Jeff said, "For the next application window, if there's claims we can see if registrants are willing to take surveys on why they did not - did or did not proceed." I'm going to pull that comment out as well. Thank you to everyone.

Mary, you're next and then Phil.

Mary Wong: Thanks, Kristine. And so I guess the first introductory comment I'll make is that having, you know, gone through the Analysis Group report with the working group, the sub team, and those of our GDD colleagues who were assisting with formatting that report, it does seem that while the abandonment rate of 93 point whatever percent is quite instructive, it's very difficult, if not dangerous, to read more into it given that the data really isn't there or may not be possible to have had at that point in time (unintelligible).

So having said that, we just wanted to remind the group - and this is something that we had noted to the full working group as well - that for GNSO working groups there is a process by which groups can try to acquire data especially data that needs to come from external third parties or for which a cost or some professional services may be required.

And so it may be helpful for this group when we send our data collection suggestions back to the working group to note where some of our suggestions may benefit from using that process. And it may even be that in relation to getting data from registrars, that ICANN can work with the registrars to see if some kind of a third party professional service provider could work with the registrars to help anonymize their data as we suggested

above. So I just wanted to note that as a possibility for everyone. Thanks, Kristine.

Kristine Dorrain: Thanks, Mary. Phil, go ahead.

Phil Corwin: Thanks, Kristine. Phil for the record. I think probably the most meaningful data that it might be possible to get because particularly if we can anonymize the registrars and assure them of confidentiality is a comparison of the abandonment rate where no claims notice is generated versus the abandonment rate where it is generated. I mean, the purpose of the claims notice, as I understand it, is to deter abusive registrations.

So it's to say to the intentional infringer, hey, we're onto you, and if you go forward you're going to be - you can expect legal issues and get them to abandon the registration. What we don't know is to what extent is also deterring registrations that would be not infringing. But I think for our purposes, the most meaningful data would be abandonment rate where claims notices are generated versus those in which there's no claims notice and that's - that would be the most useful for considering the policy pluses and minuses of any expansion of categories of marks or terms related to the marks such as typographical variations if they were to result in additional generation of claims notices. So that's it. Thanks.

Kristine Dorrain: Thanks, Phil. Sounds like you are supporting Rebecca's suggestion about really looking at that delta. I did hear I mean, what I think we'll reproduce your comment in its entirety of course, but I did hear Roger say that providing actual abandonment numbers might be tough and you'd suggested anonymizing and maybe that could solve the problem.

But I think from what I'm understanding from what you said, and correct me if I'm wrong, is that you would also be - you'd also think that the delta as discussed by Rebecca, puts the difference in the abandonment rates. But at

a minimum if we could get that on an anonymized basis that could possibly be useful. Does that - is that a correct characterization?

Phil Corwin: Well, just to continue. If we were to - if we found out that the abandonment rate of domains registered at legacy TLDs or domains registered at new TLDs, which did not - were not exact matches of marks registered in the Clearinghouse was 80%, we'd probably say well there's not a huge difference between you know, those subject to claims notices. If we found out it was 20%, we'd say this is having a very substantial impact. It's making a significant difference in the completion of registration.

So I think it would be very useful and that's - the registrars know that obviously, they know how many transactions get started and don't go through to completion. They probably - they may not know why, you know, but at least it would give us some control group to compare the Analysis Group data to. Thank you.

Kristine Dorrain: Thanks, Phil. Roger, go ahead.

Roger Carney: Yes, it's Roger. I'd just like to follow up on what Phil suggested there. I think I'd be careful, in a lot of discussions that we've had there are quite a few registrars that either chose not to put the work into making a difference, you know, a choice here of knowing where the abandonment happened, you know, related to claims. Or they just didn't even think about it and didn't do it and there's a lot of systems out there that aren't sophisticated enough to even really track abandonment rate.

So I'd be careful on saying, you know, registrars know - I think most registrars only know and, you know, a lot of the big registrars, you know, have numbers that support you know, when and where that happens. But I would say there's a good number of registrars that don't - especially, you know, going to Jeff's point, looking back at this last round they didn't either think about it or didn't have the time or effort to put into it. So Jeff's suggestion of maybe looking at

the next round and possibly looking even if we go beyond abandonment rate, looking at the reasons why it's probably something, you know, more achievable than looking historically back and trying to figure it out. Thanks.

Kristine Dorrain: All right, thank you. Thank you, Roger and Phil and everyone. And got some good notes of all of that. So really, really interesting. And that, Roger, is sort of - was what I was alluding to when we talked about sort of educating the general community. I know that one of the things I've realized as a registry operator participating either on the plenary calls or on these sub team calls is that there's sort of specific, you know, sort of maybe inside industry knowledge that I know about registries but, you know, other people on the call might not be aware of. And I've found that there's a certain educational component to my presence here.

And I know that the group is probably suffering a little from a lack of a little registrar explanation as well. So anything that you're able to contribute or you're able to kind of muster up from the registrar rinks to come help us learn more about the registrar process and learn more about how, you know, the pain points registrars have with the claims or the sunrise you know, all of that is really relevant to the work of this working group and these sub teams so really appreciate you, you know, taking the time to weigh in today because I think that's been sort of a missing voice over the past weeks at least.

I'm skimming through and really feeling like these questions - I don't want to waste a lot of time, we only have 15 more minutes, like kind of hashing through every single one of these questions. I've been through them a couple of times. I think everyone, hopefully, has had a chance to do a skim during this call. And I'm not seeing a lot of additional information that takes it away from, you know, asking the registrar for more information.

So I'd like to jump ahead to 2D where - which is not registrar-related and not related to abandonment necessarily. So this goes to Michael Graham's question that we could use some data on UDRP and URS cases and

decisions involving exact and non-exact matches of trademarks and more importantly trademarks registered in the Trademark Clearinghouse. I definitely think that this was going obviously to sort of effectiveness.

But does anybody have any suggestions on that piece? We are on Page 5 of the chart, if you're scrolling independently, 2D is the question or the point that we're looking at right now which is, "What data could we get on UDRP and URS cases?" And I know we've bandied around some suggestions about how to get that and the efficacy of getting that. Does anyone have any comments about that particular sort of data?

I'm also going to - planning to at least - flag that as yellow in sort of the hard to get category. Not impossible, but definitely going to be harder to get. And while you're thinking about that question, there's a significant chat back and forth about, you know, kind of questions, could we do this, could we do that. I don't have time to read it right now but I'm going to go back because I'm not seeing anybody who has a question to read out. But Jeff's making some suggestions that I think we can pull out. And it looks like Amr and Mary are trying to capture those in the notes as well so we'll have those sent around to us later today probably or early next week.

So, yes, going back to UDRP URS, I'm going to leave that as a question. I think that is a valid question that is something that this working group has already said we think would be useful, and we are going to flag that as possibly what I'm calling yellow data, data that's going to be harder to get. Didn't see anybody else saying anything about that.

Skipping ahead, pretty much all the rest of the questions relate to cart abandonment which generally is a registrar issue and has to do with the questions here. Before we jump back to the main table that's charter questions table, Phil, go ahead.

Phil Corwin: Yes, Kristine, I'm - I'm not seeing a question on UDRP or URS. Could you point it out to me or what am I missing here?

Kristine Dorrain: Yes, on the table on the screen currently if you jump down in the left hand side to Section 2, because everything before that is related to cart abandonment.

Phil Corwin: Oh I see it.

Kristine Dorrain: Under Section 2, jump over to the next column and then they go A, B, C, D, it's Letter D which is specifically one of our questions on UDRP and URS.

((Crosstalk))

Phil Corwin: Well, you know, at least for WIPO and NAF, all the decisions are published. But they don't - someone would have to read through representative sample decisions to see whether it was an exact match to trademark or if it was a typo squat, what type of typo squat it was. But I'm not - what would the - I'm trying to understand what the purpose of doing that analysis would be. I'm not saying it wouldn't be valid, but I'd like some more explanation of that.

Kristine Dorrain: Yes, so I'll jump in here real quick and then, Mary, I see your hand is up. I think you also want to address this as well. So we have been talking about the correlation between domain names that were registered during the claims period that were sort of subsequently then a result of a - or the target of a UDRP or URS case. So was - one way to determine if there was any sort of deterrent effect by the claims notice.

So it wouldn't work obviously to just look at all UDRP and URS cases because we really are interested in the ones during for which the registrant would have been shown the claims notice. And that was really one of the things that we were looking at specifically with relation to UDRP and URS. And that's why it's actually yellow data because it's not raw data, it's actually

sort of, you know, analyzed and synthesized data and that's why I think it's going to be harder to get.

Mary, please finish my answer with something better.

Phil Corwin: Well, could I just jump back in?

Kristine Dorrain: Sure.

Phil Corwin: And I attended at the INTA meeting last week, I attended the presentation by WIPO and officials and two panelists on the new (3.0) review for UDRP panelists. And in the course of that I believe Brian Beckham stated that half of WIPO's cases last year were from new TLDs, which would certainly be a disproportionate number if my recollection is accurate compared to their percentage of all domain registrations.

I don't know if WIPO has any way to do a quick scan of that data but they handle about half the UDRP cases so that would give a - a scan of the 2016 cases that new TLDs would give us some idea of how many involved exact matches and marks and how many involve variations. But again, once we had that data, what would it lead us to other than knowing how many - how many abuses take place from variations in marks? I guess that would be the benefit. Right?

Kristine Dorrain: Yes, I think you're right. But even more specifically we're interested in did that domain name get registered during a claims period such that we can surmise that that registrant was on notice? Did - is or are those that big jump of new gTLDs related cases, were they all registered during general availability after the claims notices were done being shown in which case those registrants would not have been put on notice and therefore we could possibly see a difference between the two.

So, yes, absolutely, the raw data and trademark - identical match versus mark plus keyword obviously are also very important because we obviously know that the claims notice does not currently address mark plus keyword. But it's even a matter of timing...

Phil Corwin: Okay.

Kristine Dorrain: How do we know...

Phil Corwin: It would be trying to determine whether for those marks that were registered despite receipt of the claims notice whether receipt of the claims notice was having a significant deterrent effect on bad actors.

Kristine Dorrain: Correct. Yes, correct.

Phil Corwin: Thank you.

Kristine Dorrain: Yes. Yes, you're very welcome. That's good, good drilling down, make sure we get the right information. Mary, go ahead.

Mary Wong: Thanks, Kristine. And thanks, I think you guys already went very far down the path that I was going to raise. I think generally speaking in terms of what we're discussing this really isn't about abandonment rate, but more broadly about the - one of the questions that this sub team is suggesting to the full working group which is the question if intended effect.

And so in that case making the distinction between an exact match and a non-exact match would be critical, and for an exact match, Kristine, as you said, trying to figure out for those cases that were brought under UDRP or URS that is an exact match, whether there was - it was registered during the claims notice period, for example, that is drilling down to a level that hasn't been done to my knowledge.

Although, at this point, I'll add something I typed in the chat that the Analysis Group did do some of this type of analysis with regard to different types of, you know, mistakes and non-exact matches like fat fingers and so forth. So what we might want to do is perhaps take out this 2D, have a separate column or question on that because it is broader than abandonment rate, maybe make it clear what exactly we're looking for and in the suggestions to the group we could take up the WIPO suggestion that Phil is making and also take it as an action item and staff can start on that, to look at what it is that the Analysis Group did and whether that's helpful even as a starting point. Thanks.

Kristine Dorrain: I think that's great, Mary. And I'll take you up on your offer because we would love to see if you could you know, review the Analysis Group data and see if there something there. I do recall if they haven't changed it, that when I was at Forum, we actually created a tick box where if you searched UDRP decisions you could tick a box and it would show you only cases that implicated a new gTLD. So I think if that functionality is still on there and it's still working, that could be one way to also limit UDRP cases at least NAF cases by only cases that implicate at least one new gTLD while we're looking as well.

I'm hesitant - so I want to get - before - I'm going to do a little housekeeping before we leave now today. So we've done a really good analysis of the abandonment rate docs, we've recircled back, we've looked at the stuff we talked about last week, we've realized the shortfalls. The questions that we would like to present or the data table that we're eventually going to present to the broader working group is the actual trademark claims charter questions table. And that was the table that staff had shown on the Adobe Connect room at the beginning.

This is sort of a working doc. I would like to get some quick sense before we go on next steps to do with this second doc. I really don't like the idea of having multiple docs but I understand that there's kind of a lot of data in this

abandonment rate doc that I think could be useful. So I'm looking for suggestions for how to go forward with this.

Should we try to synthesize a little bit sort of list all the questions? I think that we generally came up with about, you know, 10 or so suggestions that kind of applied to all of the questions. And maybe put that as a summary, like a written summary at the end of the actual charter questions table doc. I'm not sure, that's sort of what I'm thinking. Anybody have any suggestions for the best way to make sure that we're not working in two different documents?

Does anything that my suggestion to summarize the notes in the abandonment rate doc in sort of a - either a paragraph or a bullet pointed format and paste it to the bottom of our charter questions doc, our main doc that we've been working in all along, does anybody disagree with that plan? If so, please let me know with a red X if you disagree - if you think that would be way too confusing.

My intent is not to go forward and keep working in this but really just to preserve this discussion for the broader working group when they need it.
Amr.

Amr Elsadr: Thanks. This is Amr. Yes, I think what you suggest is a very plausible way forward. I think sort of trying to have this discussion or the discussion taking - take place on this document in the other table might make it quite messy and just fill it up to a point where it may be difficult to understand. But one way or another it would be helpful I think if whatever output comes out of this document in terms of sub team agreements on how to handle the data issues would feed into the other document.

And it might also be helpful just to sort of provide a comprehensive reports to the working group that this document be attached to the other table or another document as a form of an appendix or so just to - just so it's clear to

the working group how the sub team did its work and how it reached its conclusion. So that's just a suggestion on my part. Thank you.

Kristine Dorrain: Yes, I think I can support that, Amr. Absolutely I do not think the doc should go away at all. And I know it won't. It's now in the archives of ICANN, it won't go away. But yes so I would love to see so for an action item let's keep this doc, let's preserve it as it is, we're not going to do anything more to it.

We're going to capture all of the notes from today and we're going to summarize - we're going to summarize the document contents, put it at the end of the charter questions and we are going to add these sort of data available, we're going to add to the data available collection needed column, so the far right column in the charter questions doc. We're going to add our outcomes and the results of our conversation today in that column so we can keep everything together. But as you said, reference this document in our work product as an appendix.

So I think that's - hopefully that recap make sense. If not we can you know, circulate on the list as well. Thanks, everyone, for a great conversation today. The goal I think, for next week will be to really review that final column on the charter questions table with the sense of making sure that we've filled in anything else we can. So I encourage everyone for homework to look at the right column and then specifically with relation to the updated charter Questions 3, 4 and 5, we are missing suggestions for data. So let's see if we can put our heads together and add some things to the column on the right side of the charter questions table during the next week so that we can be ready for our call next Friday. Thanks, everyone, for your fabulous participation and have a wonderful weekend.

Michelle DeSmyter: All right. Thanks, Kristine, and everyone. Meeting has been adjourned.
Operator, please stop the recording.

END